

# **3 FAM 7000 OVERSEAS EMPLOYMENT**

## **3 FAM 7100 GENERAL**

### **3 FAM 7110 INTRODUCTION**

*(CT:PER-635; 03-01-2011)  
(Office of Origin: HR/OE)*

### **3 FAM 7111 SCOPE**

*(CT:PER-635; 03-01-2011)  
(Establishments under Chief of Mission Authority)  
(Applies to Overseas Employees)*

- a. The Bureau of Human Resources, Office of Overseas Employment (HR/OE), under the authority established in 1 FAM 235.5 is responsible for developing and administering the policies, regulations, procedures and guidelines used to manage the Department of State's and participating agencies' Overseas Employment program at Foreign Service posts abroad.
- b. Overseas Employees include:
  - (1) Locally employed staff (*LE staff*) paid under local compensation plans; and
  - (2) Family members and other not ordinarily resident employees paid under the Foreign Service schedule.
- c. The regulations set forth in 3 FAM 7000 and 3 FAM 8000 are developed to meet the Department of State's and participating agencies' human resources management requirements for Overseas Employees. They are under continuous review and subject to modifications to meet changing

conditions in host countries, evolving organizational needs, and new statutory requirements. Posts and other user organizations are encouraged to provide HR/OE with suggestions and recommendations for improving the substance, content, effectiveness, and usefulness of these regulations and other Overseas Employment human resources management guidance.

- d. See 3 FAM 7120 for definitions that apply throughout 3 FAM 7000 and 3 FAM 8000.
- e. Chapters in 3 FAM 7000 and 3 FAM 8000 and 3 FAH-1 and 3 FAH-2 as well as HR/OE's intranet website contain the preponderance of the policies, regulations, procedures, and other guidelines covering Overseas Employees. Other relevant regulations and procedures, not limited to the following, may also apply to Overseas Employees:
  - (1) 3 FAM 3630 – Workers' Compensation;
  - (2) 3 FAM 3300 – U.S. Leave Administration;
  - (3) 3 FAM 3650 – Death Gratuity;
  - (4) 3 FAM 4120 – Employee Responsibilities Abroad; and
  - (5) 3 FAM 4800 – State and USAID Awards Program.

**Note: Participating Agency/Establishment-specific regulations, to the extent they are not in conflict with State regulations, procedures, policies, and guidance.**

### **3 FAM 7111.1 Requirements**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

All employees are required to comply with these regulations and other guidance issued by State. The requirements and guidance contained in these regulations are designed to cover the wide variety of situations and cases posts and employing organizations encounter in the management of Overseas Employees. It is neither possible nor desirable, however, to develop and issue regulations and guidance covering all possible situations that arise in the management of our multi-agency, worldwide workforce. Responsible officers and employees are expected to use sound judgment in applying these regulations and guidance, not only in their performance of routine day-to-day activities, but also when encountering unusual and

unique situations. Actions taken and decisions made must reflect equitable and respectful treatment of affected employees, be fiscally responsible, and reflect the best of American values. Responsible officials may not disregard or make unauthorized exceptions to these regulations. Failure to comply with these requirements may result in personal fiscal liability and/or disciplinary action.

### **3 FAM 7111.2 Other Agencies and Establishments**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

These regulations and any supplementary State guidelines, controls and procedures used to manage Overseas Employees are applicable to any agency/establishment under chief of mission (COM) authority with the exception of the Foreign Broadcast Information Service, the Veterans Administration (VA), and the American Battle Monuments Commission. These agencies have separate statutory authority for overseas human resources management systems.

### **3 FAM 7111.3 Waiver of Regulations**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

In addition to existing authorities regarding waiver of FAM provisions, upon the recommendation of the Director of the Office of Overseas Employment, the Director General of the Foreign Service and Director of Human Resources may waive provisions of 3 FAM 7000 if not contrary to law and with the concurrence of the Office of the Legal Adviser.

## **3 FAM 7112 RESPONSIBILITIES**

### **3 FAM 7112.1 Chief of mission**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

Under the direction of the President and the general supervision of the Secretary of State, the COM is in charge of the entire United States

diplomatic mission and supervises all of its activities. The COM's authority encompasses not only the personnel of the Department of State and the Foreign Service, but also personal representatives of other United States Executive Branch agencies (excluding those personnel under the command of a U.S. area military commander) that have programs or activities in the country. (1 FAM 013.2)

### **3 FAM 7112.2 Other Roles and Responsibilities**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

#### **a. The Bureau of Human Resources' Office of Overseas Employment (HR/OE):**

- (1) Leads the development of interagency policy, legislative, regulatory, and procedural framework for the management of Overseas Employees;
- (2) Develops and authorizes local compensation and benefit plans and monitors posts' administration of these plans;
- (3) Develops and monitors Overseas Employment recruitment and employment procedures;
- (4) Develops, implements, and monitors the Computer-Aided Job Evaluation system covering positions encumbered by Overseas Employees; and
- (5) Provides policy interpretations and procedural guidance on the management of Overseas Employees.

#### **b. Other Agencies/Establishments.**

Any agency or other U.S. Government establishment operating under the authority of a COM will ensure that, in coordination with the Department of State, the COM's approval is sought on any proposed changes in the size, composition, or mandate of staff elements regardless of hiring authority in accordance with NSDD-38 and other State guidance.

Agencies/establishments are responsible for delegating appropriate employment authorities and providing guidance to their representatives at posts abroad.

#### **c. The Embassy Human Resources Officer**

The Human Resources Officer (HRO) is responsible for managing and administering the Overseas Employment program for and in cooperation with the agencies and establishments under a COM's authority. These responsibilities are performed in accordance with the provisions of 3 FAM 7000 and 8000, and any other State guidance, procedures, and policies used to manage locally employed (LE) and Family Member (FM) staffs. At those embassies without an HRO, the Embassy Management Officer (MO) has this authority and responsibility.

## **3 FAM 7113 LEGAL AUTHORITY**

### **3 FAM 7113.1 State**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

- a. The following authorities, among others, permit the Secretary of State (or designee) to:
  - (1) Administer and direct the Foreign Service (Ch. 2, Section 201, of the Foreign Service Act of 1980, as amended, hereinafter referred to as the Act, 1 FAM 020);
  - (2) Appoint members of the Foreign Service and compensate them (Chapter 2, Sections 303, 309, 311 of the Act; 3 FAM 7320; 3 FAM 8200);
  - (3) Establish salaries, benefits, death gratuities, and awards programs for Overseas Employees (Chapter 3, Sections 408, 410, 413, and 614 of the Act; 3 FAM 7300, 3650, 4800);
  - (4) Consider Appointment Eligible Family Member status as an affirmative factor for employment (Chapter 3, Section 311 of the Act, 3 FAM 8200);
  - (5) Authorize other agencies/establishments to use the Foreign Service human resources management system and to appoint Family Members and U.S. citizens (Chapter 2, Section 202(a), (4) (A and B));
  - (6) Employ individuals, for services abroad, under a contract which is not subject to Federal Acquisition Regulations (Section 2(c) of the Basic Authorities Act (BAA) of 1956 (22 U.S.C 2669)), as amended – the basis for the Department of State's Personal Services

Agreements (PSA) method of employment;

- (7) Exercise the authority in Section 2(c) of the Basic Authorities Act on behalf of any department or agency so requesting (Section 2(n) of the Basic Authorities Act of 1956, 22 U.S.C. 2669); and,
- (8) Prescribe regulations and delegate functions (Chapter 2, Section 206, and Chapter 3, Section 408 (c) of the Act; 2 FAM, 3 FAM).

b. The following authorities require the Secretary of State (or designee) to:

- (1) Administer the Foreign Service human resources management system to the extent practical in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service human resources management system (Chapter 2, Section 203 of the Act; 3 FAM 7000/8000), and
- (2) Consider the need for uniformity on a continuing basis of human resources management policies and procedures and for consolidation of human resources functions among agencies utilizing the Foreign Service human resources system,(Section 204 of the Act).

### **3 FAM 7113.2 Other Agencies or Establishments**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

Other agencies and U.S. Government establishments may:

- (1) Administer employment programs for their overseas employees (Section 408(b) of the Act);
- (2) Seek authority from the Secretary of State to use the Foreign Service human resources management system and to appoint Family Members and U.S. citizens (Chapter 2, Section 202 (a), (4) (A) and (B) of the Act);
- (3) Use an overseas limited appointment for a U.S. citizen recruited overseas (5 CFR 8.2 and 301.201 et seq.); and
- (4) Appoint persons not citizens of the United States (5 CFR 8.3).

### **3 FAM 7113.3 Host Country Law**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Locally Employed Staff ONLY)*

It is the policy of the U.S. Government that all agencies and establishments under COM authority employ locally employed (LE) staff consistent with host country law insofar as U.S. law is not violated and adoption of local law is consistent with the U.S. public interest.

### **3 FAM 7114 DELEGATION OF EMPLOYMENT AUTHORITIES TO OTHER AGENCIES AND ESTABLISHMENTS**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

- a. The Secretary of State (or designee) may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch), to:
  - (1) Appoint U.S. citizens hired abroad as members of the Service and to utilize the Foreign Service human resources system (Chapter 2, Section 202 (a), (4) (A) and (B);
  - (2) Exercise authority under Section 2 (c) and (n) of the Basic Authorities Act of 1956 (22 U.S.C 2669) on behalf of the head of any other department or agency; and
  - (3) Enter into Personal Services Agreements with individuals hired abroad to perform services in support of such other department or agency.
- b. This authority may not be extended to any department or agency not under COM authority. Examples of situations where employees are not under COM authority include:
  - (1) U.S. military forces operating in the field under the command of a U.S. area military commander, or
  - (2) Such other military activities as the President elects to conduct

through military channels.

**See 1 FAM 021.1 for military operations that fall under COM authority.**

- c. The Secretary of State (or designee) will only exercise Department of State Personal Services Agreement authority on behalf of an agency under COM authority when there is a duly executed "Memorandum of Agreement (MOA) Regarding the Department of State's Overseas Personal Services Agreement Authority." MOA's between the Department of State and the agency/department are signed at the headquarters level, not at post.

### **3 FAM 7114.1 State Embassy Human Resources Officer**

*(CT:PER-526; 04-07-2005)*

*(State only)*

*(Applies to Overseas Employees)*

Employment authority, including direct-hire appointment authority and Personal Services Agreement (PSA) hiring authority, is delegated to the Embassy Human Resources Officer (HRO) and in the absence of the HRO, the Embassy Management Officer (MO) or Acting MO. Employment authority includes authority to approve direct-hire appointments, personal service contractors (PSC) and PSA hiring, promotions, within grade increases, separations, adverse actions, and other human resources actions requiring the preparation and authorization of Form SF-50, Notification of Personnel Action, Form JF-62 Personal Services Contracting Action, Form JF-62a Personal Services Agreement Action, and Form DS-1990 Limited Personal Services Agreement.

### **3 FAM 7114.2 Agencies/Establishments**

*(CT:PER-526; 04-07-2005)*

*(Establishments under Chief of Mission Authority)*

*(Applies to Overseas Employees)*

- a. Depending on the authority delegated to them, heads of Participating agencies/establishments may or may not delegate employment authority to the Human Resources Officer (HRO) at post. Delegations must be made in writing and maintained at post.
- b. To ensure the USG acts as a single employer in the host country, the Embassy HRO is responsible for the coordination of interagency



employment policy and actions.

## **3 FAM 7115 THROUGH 7119 UNASSIGNED**